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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

DEC 23 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter )  
 )  
Beehive Telephone Company, Inc. ) CC Docket No. ~~98-108~~  
Beehive Telephone, Inc. Nevada )  
 ) Transmittal No. 14  
Tariff F.C.C. No. 1 )

AT&T PETITION TO REJECT OR, IN THE  
ALTERNATIVE, SUSPEND AND INVESTIGATE

Pursuant to Section 1.773(a)(2)(iii) of the  
Commission's Rules, 47 C.F.R. § 1.773(a)(2)(iii), AT&T  
Corp. ("AT&T") hereby petitions the Commission to reject,  
or in the alternative, suspend and investigate Transmittal  
No. 14 of Beehive Telephone Company, Inc. and Beehive  
Telephone, Inc. Nevada (collectively, "Beehive").

On December 8, 1998, Beehive filed Transmittal  
Nos. 13 and 14 revising certain rates in its Tariff F.C.C.  
No. 1, in purported compliance with the Commission's  
Beehive Order.<sup>1</sup> It is apparent on the face of Transmittal

<sup>1</sup> See Beehive Telephone Company, Inc. Beehive Telephone  
Inc. Nevada, Transmittal No. 11, Memorandum Opinion and  
Order, released December 1, 1998, para. 1 ("Beehive  
Order"). The Beehive Order found that Beehive failed to  
meet its burden of proof under Section 204(a)(1) of the  
Communications Act, 47 U.S.C. § 204(a)(1), to justify  
its proposed tandem switched transport facility, tandem  
switched transport termination, and transport  
interconnection charge rates under Transmittal No. 11.

(footnote continued on following page)

No. 14 that, in addition to revising its transport rates as ordered in that decision, Beehive has also revised -- and substantially increased -- its local switching rates. The Commission should reject the local switching rates, because Beehive attempts to raise those rates without any justification, in contravention of the Commission's previous prescription of those charges.

Specifically, on June 16, 1998, Beehive filed Transmittal No. 11, which proposed to revise its interstate access service rates in accordance with the Commission's Access Charge Reform Order, by establishing rates for the tandem switched transport facility, tandem switched transport termination, and transport interconnection.<sup>2</sup> On June 30, 1998, the Competitive Pricing Division of the Common Carrier Bureau suspended Beehive's Transmittal No. 11 for one day, initiated an investigation into the lawfulness of Beehive's tariff filing for those rate

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(footnote continued from previous page)

Consequently, the Commission prescribed rates for these services and required Beehive to use the premium access rates set forth by NECA in its Tariff F.C.C. No. 5, effective July 1, 1998.

<sup>2</sup> Access Charge Reform Order, First Report and Order, 12 FCC Rcd 15982 (1997).

elements, and imposed an accounting order.<sup>3</sup> The Bureau also rejected as patently unlawful Beehive's attempt to revise its premium and non-premium local switching rates, because they increased the local switching rates the Commission had prescribed just weeks before in the Beehive Tariff Investigation Order.<sup>4</sup>

However, in Transmittal No. 14, Beehive has again revised its local switching rates,<sup>5</sup> which the Commission had prescribed in June 1998.<sup>6</sup> The revised premium local

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<sup>3</sup> Beehive Telephone Company, Inc. Beehive Telephone Inc. Nevada, Transmittal No. 11, Order, 13 FCC Rcd 12647 (1998) ("Suspension Order").

<sup>4</sup> Suspension Order at 12649. See Beehive Telephone Company, Inc., Transmittal No. 8, Memorandum Opinion and Order, 13 FCC Rcd 12275 (1998) ("Beehive Tariff Investigation Order"). In the Suspension Order, the Commission determined that Beehive proposed to increase premium local switching rates by approximately 300% and non-premium local switching rates by approximately 250%, without addressing or explaining how Beehive corrected "the gross deficiencies the Commission found in Beehive's accounting procedures and historic cost support in the 1998 Beehive Tariff Investigation Order." Suspension Order at 12650.

<sup>5</sup> Beehive revised its local switching rate to that of NECA's local switching rate.

<sup>6</sup> Because Beehive's cost and investment information was unreliable, the Commission prescribed Beehive's premium and non-premium local switching rates of \$0.009607 per minute and \$0.004323 per minute, respectively. Beehive Telephone Company, Inc. Beehive Telephone, Inc. Nevada, Memorandum Opinion and Order, 13 FCC Rcd 12275 (1998), para. 25.

switching rate is more than 150% higher than the prescribed premium local switching rate.<sup>7</sup> The proposed rate of \$0.025719 is only slightly less than the \$0.028252 rate proposed in Beehive's Transmittal No. 8.<sup>8</sup> Thus, Beehive's Transmittal No. 14 is nothing less than a bald, unjustified attempt to reinstitute a local switching rate that the Commission had rejected previously as patently unlawful.<sup>9</sup>

Beehive has not and cannot provide any justification for revising the rates prescribed by the Commission. First, the Commission has not ordered Beehive to revise the rates. Second, there has been no change in the conditions that existed when the rates were prescribed -- Beehive's cost and investment information remains as unreliable today as it was when they were originally submitted.

Consequently, there is no basis upon which Beehive is permitted to raise its local switching rates.

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<sup>7</sup> The prescribed rates are \$0.009607 per minute. Beehive's proposed rates are \$0.025719 per minute. See Transmittal No. 14, 7<sup>th</sup> Revised Page 11.

<sup>8</sup> Beehive Access Tariff FCC No. 1, Transmittal No. 8 (December 17, 1997).

<sup>9</sup> See Beehive Suspension Order.

Therefore, Beehive's Transmittal No. 14 must be rejected,  
or in the alternative, suspended and investigated.

Respectfully submitted,

AT&T CORP.

By /s/Seth S. Gross

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December 15, 1998

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CERTIFICATE OF SERVICE

I, Rena Martens, do hereby certify that on this 15<sup>th</sup> day of December, 1998, a copy of the foregoing "AT&T Petition To Reject Or, In The Alternative, Suspend And Investigate" was served by facsimile transmission and by U. S. first class mail, postage prepaid, to the parties listed below.

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